

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

JUXTACOMM TECHNOLOGIES, INC.,

Plaintiff,

v.

ASCENTIAL SOFTWARE
CORPORATION, et al.,

Defendants.

Civil Action No. 2:07-CV-359 LED

JURY TRIAL DEMANDED

**ORDER GRANTING JOINT STIPULATION REGARDING DEFENDANTS'
INEQUITABLE CONDUCT COUNTERCLAIMS AND AFFIRMATIVE DEFENSES**

Before this Court is JuxtaComm Technologies Inc. (“JuxtaComm”), Ascential Software Corporation (“Ascential”), International Business Machines Corporation (“IBM” and collectively with Ascential, the “IBM Defendants”), and Microsoft Corporation (“Microsoft”) Joint Stipulation Regarding Defendants’ Inequitable Conduct Counterclaims and Affirmative Defenses. Pursuant to stipulation, it is so ORDERED:

1. Microsoft and the IBM Defendants existing affirmative defenses of inequitable conduct (Microsoft’s Answer and Counterclaim to JuxtaComm’s Second Amended Complaint for Patent Infringement (Docket No. 353), Eighth Affirmative Defense; IBM Defendants’ Answer to Plaintiff’s Second Amended Complaint and Counterclaim (Docket No. 349), Twelfth Affirmative Defense) are withdrawn with prejudice.

2. Microsoft and the IBM Defendants existing counterclaims for declaratory judgment of unenforceability due to inequitable conduct (Microsoft’s Answer and Counterclaim

to JuxtaComm's Second Amended Complaint for Patent Infringement (Docket No. 353), Counterclaim Count III: Declaratory Relief Regarding Enforceability; IBM Defendants' Answer to Plaintiff's Second Amended Complaint and Counterclaim (Docket No. 349), Second Counterclaim for Declaratory Judgment of Unenforceability) are withdrawn with prejudice.

3. JuxtaComm's Motion to Strike or, Alternately, for Partial Summary Judgment on Defendants' Claims of Inequitable Conduct (Docket No. 654) is withdrawn as moot.

4. Nothing in this Order will bar or otherwise prevent Microsoft or the IBM Defendants from raising in any future litigation concerning U.S. Pat. No. 6,195,662 any claim or defense of inequitable conduct based on evidence of inequitable conduct not presently known to Microsoft or the IBM Defendants.

5. Nothing in this Order will bar or otherwise prevent Microsoft or the IBM Defendants from raising in this or any future patent infringement litigation claims or defenses of inequitable conduct that may occur during the reexamination of U.S. Pat. No. 6,195,662.

6. Each party will bear its own costs and fees in connection with Microsoft's and IBM's withdrawn inequitable conduct defenses and counterclaims.

So ORDERED and SIGNED this 8th day of September, 2009.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**